

## REMARKS

Claims 6, 9, 11-13, 16-18, 21, 23, 25, 27-35, 37, 39, 41, and 43-50 are pending in this application.<sup>1</sup> Claims 16-18, 21, 23, 25, and 27-33 were previously withdrawn from consideration. In this response, claims 43 and 44 have been amended. Claims 6, 9, 11-13, 34, 35, 37, 39, 41, 43-50 are currently under consideration.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned **“VERSION WITH MARKINGS TO SHOW CHANGES MADE.”** Support for the claim amendments may be found in the specification, for example on page 36, lines 5-13 and in Figure 12 (peptide 4). No new matter has been added by the foregoing amendments.

The Office has required restriction to one of the following inventions under 35 U.S.C. § 121:

I. Claims 6, 9, 11-13, 34, 39, 41, 45-50, drawn to a composition comprising a contiguous sequence of amino acids within the sequence representing residues 149-197 of the G protein of respiratory syncytial virus (RSV), wherein more than one of cysteines 173, 176, 182, and 186 is absent or blocked and non-glycosylated, and the method for using the polypeptide for inhibiting the RSV CPE.

II. Claims 16-18, and 21, drawn to an antibody and method for using the antibody directed against a polypeptide of RSV G protein

III. Claims 23, 35, and 37, drawn to a method for diagnosis of Pneumovirus infection by using a polypeptide of RSV G protein

IV. Claim 25 and 27-33, drawn to a method for identification of a cell surface receptor for RSV G protein

---

<sup>1</sup> Applicants respectfully note that the Office Action Summary incorrectly fails to list claims 37 and 39 as pending in this application.

V. Claims 43-44, drawn to a compound comprising the amino acid sequence of SEQ ID NO:39, wherein the cysteine residues are derivatized with acetamidomethyl

Applicant hereby elects Group I (claims 6, 9, 11-13, 34, 39, 41, 45-50), with traverse.

Applicant respectfully notes that claims 35 and 37 (Group III) are not drawn to a method of diagnosis, as asserted in the Office Action. Claims 35 and 37 are drawn to a diagnostic composition, rather than a method. These claims are dependent upon claim 6, which is drawn to a compound (Group I). Claim 35 recites a diagnostic composition comprising a compound according to claim 6, and claim 37 recites the composition of claim 35, wherein one or more amino acids is replaced by its corresponding D-amino acid. Neither of these claims recites a method of diagnosis. Since the claims of Group I, and claims 35 and 37, all recite compounds or compositions drawn to a contiguous sequence of amino acids within the G protein of RSV, Applicant respectfully requests that claims 35 and 37 be joined with Group I.

Claims 43 and 44 (Group V) as amended are dependent upon and encompassed within the scope of claim 6. Accordingly, Applicant respectfully requests that claims 43 and 44 be joined with Group I.

Applicant expressly reserves his right under 35 U.S.C. § 121 to file a divisional application directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application.

Applicant requests examination of the elected subject matter on the merits.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 273402004000. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: November 1, 2002

By:

Jill A. Jacobson

Jill A. Jacobson

Registration No. 40,030

Morrison & Foerster LLP

755 Page Mill Road

Palo Alto, California 94304-1018

Telephone: (650) 813-5876

Facsimile: (650) 494-0792

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the claims:**

43. (Amended)      A compound according to claim 6, comprising the amino acid sequence KQRQNKPPSKPNNDHFHFEVFNFVPCSICG (SEQ ID NO:39), wherein the cysteine residues are derivatized with acetamidomethyl.

44. (Amended)      [The] A compound according to claim 6, consisting of acetyl-KQRQNKPPSKPNNDHFHFEVFNFVPCSICGAmide (SEQ ID NO:39), wherein the cysteine residues are derivatized with acetamidomethyl.



11-04-02

Gp 1648

PTO/SB/21 (08-00)

Please type a plus sign (+) inside this box → ☐

Approved for use through 10/31/02. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number Of Pages In This Submission

7

Application Number

09/202,035

Filing Date

December 17, 1998

First Named Inventor

Jeffrey John GORMAN

Group Art Unit

1648

Examiner Name

B. Li

Attorney Docket No.

273402004000

**ENCLOSURES (check all that apply)**

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Fee Transmittal Form                                   | <input type="checkbox"/> Assignment Papers<br>(for an Application)                         | <input type="checkbox"/> After Allowance Communication to Group  |
| <input type="checkbox"/> Fee Attached   | <input type="checkbox"/> Drawing(s)  | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences                          |
| <input checked="" type="checkbox"/> Amendment / Reply (6 pages)                 | <input type="checkbox"/> Licensing-related Papers  | <input type="checkbox"/> Appeal Communication to Group<br>(Appeal Notice, Brief, Reply Brief)                |
| <input type="checkbox"/> After Final  | <input type="checkbox"/> Petition  | <input type="checkbox"/> Proprietary Information   |
| <input type="checkbox"/> Affidavits/declarations                                | <input type="checkbox"/> Petition to Convert to a Provisional Application                  | <input type="checkbox"/> Status Letter   |
| <input type="checkbox"/> Extension of Time Request                              | <input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):<br>- Return Receipt Postcard |
| <input type="checkbox"/> Express Abandonment Request                            | <input type="checkbox"/> Terminal Disclaimer   |  |
| <input type="checkbox"/> Information Disclosure Statement                       | <input type="checkbox"/> Request for Refund  |  |
| <input type="checkbox"/> Certified Copy of Priority Document(s)                 | <input type="checkbox"/> CD, Number of CD(s) _____   |  |
| <input type="checkbox"/> Response to Missing Parts/<br>Incomplete Application   |  |  |
| <input type="checkbox"/> Response to Missing Parts<br>under 37 CFR 1.52 or 1.53 |  |  |

Remarks

**RECEIVED**

NOV 05 2002

TECH CENTER 1600/2900

**SIGNATURE OF APPLICANT, ATTORNEY OR AGENT**

Firm

Morrison &amp; Foerster LLP, 755 Page Mill Road, Palo Alto, California 94304-1018

or

Individual Name

Jill A. Jacobson (Reg. No. 40,030)

Signature

Date

November 1, 2002

**CERTIFICATE OF MAILING BY "EXPRESS MAIL"**

Express Mail Label No.: EV093216280US

Date of Deposit: November 1, 2002

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

  
Tamara Alcaraz

Burden Hours Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.